

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1033

Introduced by Assembly Member Nielsen

February 27, 2009

~~An act to amend Section 39002 of the Health and Safety Code, relating to air pollution. An act to add Section 38567 to the Health and Safety Code, relating to air pollution.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1033, as amended, Nielsen. ~~Air pollution.~~ *California Global Warming Solutions Act of 2006: greenhouse gas emissions: regulation.*

The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to adopt regulations to require the reporting and verification of emissions of greenhouse gases and to monitor and enforce compliance with the reporting and verification program, and requires the state board to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020. The state board is required to adopt greenhouse gas emissions limits and emission reduction measures by regulation to achieve the prescribed emission reductions.

This bill would require a state or local agency, before adopting or amending a regulation after January 1, 2010, to evaluate and measure the effectiveness of any regulations adopted by the state or local agency on or before January 1, 2010, to reduce greenhouse gas emissions, and obtain an independent 3rd-party economic impact analysis of any proposed regulation that the state or local agency determines would impose aggregate costs of \$1,000,000 or more on greenhouse gas

emission sources subject to the proposed regulation, irrespective of the economic or noneconomic benefits of the regulation.

The bill would require a state or local agency to consider the severity of any adverse economic impact identified by the 3rd-party analysis, and would authorize the agency on that ground to revise or choose not to adopt the proposed regulation. The bill would require the agency, if it adopts the proposed regulation without revision, to make findings, supported by evidence, that the adoption of the proposed regulation is reasonable.

The bill would prohibit a state or local agency from adopting or amending a regulation to reduce greenhouse gas emissions after January 1, 2010, that imposes a greenhouse gas emission requirement on a greenhouse gas emission source that is more stringent than any regulation adopted by that state or local agency on or before January 1, 2010, that is applicable to that emission source, until eight years after the date that emission source achieved compliance with that earlier regulation.

~~Existing law generally gives responsibility for the control of air pollution from vehicular sources to the State Air Resources Board and from all other sources to local and regional authorities, as provided.~~

~~This bill would make a technical, nonsubstantive change to this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 38567 is added to the Health and Safety*
- 2 *Code, to read:*
- 3 *38567. (a) It is the intent of the Legislature in enacting this*
- 4 *section to promote the reasoned, restrained, and economically*
- 5 *sensitive regulation of greenhouse gas emissions.*
- 6 *(b) Before adopting or amending a regulation to reduce*
- 7 *greenhouse gas emissions after January 1, 2010, pursuant to this*
- 8 *division or other authority, a state or local agency shall do all of*
- 9 *the following:*
- 10 *(1) Evaluate and measure the effectiveness of any existing*
- 11 *regulations adopted by the state or local agency to reduce*
- 12 *greenhouse gas emissions, including measuring the greenhouse*

1 *gas emission reductions from regulations adopted on or before*
2 *January 1, 2010.*

3 *(2) Obtain an independent third-party economic impact analysis*
4 *of any proposed regulation that the state or local agency*
5 *determines would impose aggregate costs of one million dollars*
6 *(\$1,000,000) or more on greenhouse gas emission sources subject*
7 *to the proposed regulation, irrespective of the economic or*
8 *noneconomic benefits of the regulation.*

9 *(3) The state or local agency shall consider the severity of any*
10 *adverse economic impact identified pursuant to paragraph (2),*
11 *and on that basis may revise or choose not to adopt the proposed*
12 *regulation. If the state or local entity adopts the proposed*
13 *regulation without revision, the state or local agency shall make*
14 *findings, supported by evidence, that the adoption of the proposed*
15 *regulation is reasonable.*

16 *(c) The state or local agency shall not adopt or amend a*
17 *regulation to reduce greenhouse gas emissions after January 1,*
18 *2010, pursuant to this division or other authority, that imposes a*
19 *greenhouse gas emission requirement on a greenhouse gas*
20 *emission source that is more stringent than any regulation adopted*
21 *by that state or local agency on or before January 1, 2010, that is*
22 *applicable to that emission source, until eight years after the date*
23 *that emission source achieved compliance with that earlier*
24 *regulation.*

25 ~~SECTION 1. Section 39002 of the Health and Safety Code is~~
26 ~~amended to read:~~

27 ~~39002. Local and regional authorities have the primary~~
28 ~~responsibility for the control of air pollution from all sources other~~
29 ~~than vehicular sources. The control of vehicular sources, except~~
30 ~~as otherwise provided in this division, shall be the responsibility~~
31 ~~of the State Air Resources Board. Except as otherwise provided~~
32 ~~in this division, including, but not limited to, Sections 41809,~~
33 ~~41810, and 41904, local and regional authorities may establish~~
34 ~~stricter standards than those set by law or by the state board for~~
35 ~~nonvehicular sources. However, the state board shall, after holding~~
36 ~~public hearings as required in this division, undertake control~~
37 ~~activities in any area wherein it determines that the local or regional~~

- 1 authority has failed to meet the responsibilities given to it by this
- 2 division or by any other provision of law.

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